To: Tom Hagler/R9/USEPA/US@EPA[]
Cc: "Obegi, Doug" [dobegi@nrdc.org]; Hal Candee" [hcandee@altshulerberzon.com]
From: "Hal Candee"
Sent: Mon 7/9/2012 9:35:05 PM
Subject: RE: Interplay between WQCP process and new BDCP

Tom:
Thanks for inviting me to your 8:30 am meeting tomorrow on this topic. Unfortunately, I seem to have come down with a flu bug and will be heading home very soon. Don't know if I will make it tomorrow so go ahead without me if I don't get there.
Thanks.
Hal

From: Tom Hagler [mailto:Hagler.Tom@epamail.epa.gov]
Sent: Monday, June 04, 2012 3:14 PM
To: Hal Candee
Subject: Interplay between WQCP process and new BDCP

The new BDCP idea is, as far as I can tell, to use a "decision tree" or "adaptive science" or whatever you call it to determine what operations of the new facility will be, fifteen years from now when it is finally completed.

There are a host of issues associated with this idea. Like, for example, how do you get a change in the POD, or a 404 permit, or a BO, if you can't tell the applicable regulatory agency what you're planning on doing with that $15 billion tunnel?

But suspend disbelief.

The way Jerry M. described this new idea is that the water contractors would use the 15 year construction phase to "prove" that habitat improvements rather than more flow are the ticket to a better estuary. In theory, this is starting to sound like a "VAMP" type idea, where we agreed up front to 12 or so years of "experiments". In the VAMP, the two hypotheses were "It's flow" v. "It's exports." Keep in mind that VAMP was controversial. We (the regulators) had to be able to conclude that these were "protective experiments" that would under all test conditions protect the sensitive uses (or endangered species under ESA).

Now keep in mind that the State Board, pursuant to the Strategic Plan it adopted maybe 5 years ago, is doing both scoping and workshops for the Delta flows part of the WQCP. This plan has not been substantively changed in maybe 17 years. The water export community has been doing an aggressive campaign to delay this pending the completion of the BDCP, but the Board (and the DSC) have said, no, get it done.

So my question is this: A Board decision on a new flow regime would be probably 2 -4 years down the road, followed by litigation, etc etc. The BDCP "decision tree" set of experiments needs to account for this change in the flow regime, or else the "experimental design" is flawed.

So the general question is how does this new BDCP idea mesh with the Board's process?

Stated scientifically, if the BDCP contractors would like to show that flow is NOT the problem, how do you set up a set of experiments that are protective enough to meet the legal needs of the Board (as well as the ESA agencies) and still give you valid data points for purposes of comparing the relative effects of flow v. habitat.

(Thinking out loud, I note that the habitat part won't be ready overnight, so maybe you should put your enhanced flow experiments at the front end. I'm SURE that will go over well.)

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